

FPPC *Bulletin*



January 2003

Fair Political Practices Commission

Volume 29, No. 1

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Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

FPPC's Complaint Process Faces Increased Caseload

By Jon Matthews
FPPC Publications Editor

Preliminary information indicates that the number of case files opened by the FPPC's Enforcement Division in 2002 will far surpass the 770 opened in 2001 or the 858 opened in 2000, the year of the last statewide general election.

The increase in complaints may stem from a variety of causes, including new campaign finance rules implemented in the wake of voter approval of Proposition 34.

Despite budget and staff constraints facing the Commission, the FPPC in 2002 also appears on track to assess one of highest annual totals of administrative and civil fines in the agency's history.

To help ensure that the complaint intake process operates as efficiently as possible, here are some basic facts:

— The Enforcement Division investigates and prosecutes violations of California's Political Reform Act, which was approved by voters in 1974 and has been amended numerous times. These cases generally involve conflicts of interest, campaign contributions and expenditures and lobbying disclosure issues.

— Whether or not a full investigation is conducted, the Commission maintains its longstanding policy of informing every complaint filer in writing about the final outcome of the case — what the agency did and why it did it. If an alleged act is outside the jurisdiction of the FPPC, the complaint filer will be so notified.

— Extensive information about how to file a complaint and the enforcement process in general is available on the FPPC web site, <http://www.fppc.ca.gov>. This information includes a complaint form and a pamphlet explaining what happens to a complaint once it is filed. Interested persons can go directly to the enforcement section of the web site at <http://www.fppc.ca.gov/index.html?id=7>. Once

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**California
Fair Political
Practices Commission**

Commissioners

Karen Getman, Chairman
Sheridan Downey III
Thomas S. Knox
Gordana Swanson
Vacancy

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

...FPPC Complaint Intake Process

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there, just click on the options in the left-hand column for more information.

— Before filing a complaint, it may be helpful to contact the Enforcement Division's "intake unit" at the toll-free number **1 (800) 561-1861** to determine whether the FPPC has jurisdiction over the activity in question.

— Complaints receive an initial screening to determine whether the matter is appropriate for further investigation. Frequently, this review is based solely on the strength of the complaint and any supporting documents that are submitted. Enforcement Division staff have prosecutorial discretion to consider each complaint in light of other pending cases and the Commission's limited resources.

— As a general rule, the identity of any person filing a complaint will not be disclosed to the public or the parties against whom the complaint is made.

— A complete investigation and resolution of a complaint may take months or — in rarer cases — years. To protect the integrity of the investigation and the due process of the accused, the Enforcement Division does not provide status reports on active investigations to individuals who file complaints, the media or the general public. With limited exceptions the division will neither confirm nor deny the existence of any complaint until after the case is closed, a formal administrative accusation is issued, a civil complaint is filed, or a proposed settlement agreement is presented to the Commission.

— Once a complaint is filed with the Enforcement Division, the division will continue to pursue a case it believes worthy of a full investigation even if the individual who filed the complaint seeks to have it withdrawn.

— Filing a knowingly erroneous, frivolous or misleading complaint with the Fair Political Practices Commission is an affront to the public interest and the mission of the agency, and causes many potentially serious problems. These problems include diversion of limited Enforcement Division resources from investigation of legitimate complaints, delay of the resolution of legitimate and often extremely serious cases, and needless inflation of the Commission's already substantial caseload.

The FPPC *Bulletin* is published by the Fair Political Practices Commission

428 J Street, Suite 620, Sacramento, CA 95814

Internet: <http://www.fppc.ca.gov>

Toll-free advice line: 1-866-ASK-FPPC (1-866-275-3772)

Telephone: 1-916-322-5660

Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, e-mail your request to jmatthews@fppc.ca.gov

Future Meeting Dates

The Fair Political Practices Commission is currently scheduled to meet on the following date in 2003:

- Friday, January 17
- Additional 2003 meeting dates will be posted on the web site soon.

Meetings generally begin at 9:30 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC web site regularly as starting dates and times can change.

Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's web site at:

<http://www.fppc.ca.gov/index.html?id=63>.

Enforcement Summaries

October Commission Meeting

Campaign Reporting Violations

Mark Christopher Auto Center, FPPC No.

02/424. Mark Christopher Auto Center is a business entity engaged in the selling and leasing of new and used automobiles and trucks in Ontario. Respondent failed to disclose \$12,408 in late contributions made to a California state senatorial candidate in 2000, in violation of section 84203(a) (two counts); and failed to file a semi-annual campaign statement, in violation of section 84200(b) (one count). \$3,500 fine (three counts).

95/5, Put Your Money Where the Kids Are/Yes on Prop #223 and Kinde Durkee, FPPC No.

00/59. 95/5, Put the Money Where the Kids Are/Yes on Prop #223 was a committee primarily formed for the purpose of supporting Proposition 223 in the 1998 primary election. Kinde Durkee

was its treasurer. Respondents failed to report sub-vendor information for \$269,527 and \$150,000 in payments made to vendors, in violation of section 84303 (two counts). \$4,000 fine.

Children's Rights 2000 and Kinde Durkee, FPPC No. 00/60.

Children's Rights 2000 was a ballot measure committee existing primarily to support the qualification of Proposition 223, and the Cigarette Tax, After School Tutoring Initiative, for the 1998 primary election ballot. Kinde Durkee was its treasurer. Respondents failed to report sub-vendor information for \$72,729 in payments made to a vendor, in violation of section 84303 (one count). \$1,000 fine.

Capital Pacific Holdings, Inc., FPPC No.

02/423. Capital Pacific Holdings, Inc. is a California corporation headquartered in Newport Beach. In conjunction with campaign activity in the fall of 2000, Respondent failed to disclose a \$2,500 late contribution, in violation of section 84203(a) (one count); failed to disclose two late independent expenditures of \$10,000 each, in violation of section 84204(a) (two counts); failed to file two supplemental independent expenditure reports, in violation of section 84203.5(a) (two counts); and failed to file a semi-annual campaign statement, in violation of section 84200(b) (one count). \$6,500 fine (six counts).

Recording Industry Association of America PAC, and Jennifer Bendall, FPPC No. 99/346.

Recording Industry Association of America PAC is a general purpose recipient committee, sponsored by the Recording Industry Association of America Inc., a trade association located in Washington D.C. Jennifer Bendall was the committee's treasurer. Respondents failed to maintain adequate records of their campaign activities for the 1997-1998 audit period, in violation of section 84104 (one count), and failed to file a second pre-election campaign statement prior to the November 1998 general election, in violation of section 84200.5 (one count). \$3,800 fine (two counts).

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Correctional Peace Officers Association of Santa Clara, FPPC No. 01/556. Correctional Peace Officers Association of Santa Clara is a lobbyist employer located in Milpitas. Respondent failed to timely file two lobbyist employer reports in 2000, in violation of section 86117(a) (two counts). \$2,250 fine.

BriteSmile, Inc., FPPC No. 01/553. BriteSmile, Inc. is a lobbyist employer located in Walnut Creek. Respondent failed to timely file five lobbyist employer reports during the period of January 1, 1999 through March 31, 2001, in violation of section 86117(a) (five counts). \$7,500 fine.

Affiliated Community Healthcare Physicians, FPPC No. 01/551. Affiliated Community Healthcare Physicians, also known as Affiliated Catholic Healthcare Physicians, is a lobbyist employer located in Los Angeles. Respondent failed to timely file six lobbyist employer reports during the period of April 1, 1999 through September 30, 2000, in violation of section 86117(a) (six counts). \$10,500 fine.

Late Contribution Report Violations - Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

Graniterock, FPPC No. 2002-706. Graniterock of Watsonville failed to timely disclose a late contribution totaling \$10,000 (one count). \$1,500 fine.

Balfour Beatty Construction, Inc., FPPC No. 2002-699. Balfour Beatty Construction, Inc. of Atlanta, Georgia failed to timely disclose late contributions totaling \$30,000 (three counts). \$4,500 fine.

Dennis A. Tito, FPPC No. 2002-720. Dennis A. Tito of Pacific Palisades failed to timely disclose a late contribution totaling \$10,000 (one count). \$1,500 fine.

Douglas Bosco, FPPC No. 2002-700. Douglas Bosco of Santa Rosa failed to timely disclose late contributions totaling \$11,000 (two counts). \$1,650 fine.

Ronald N. Tutor, FPPC No. 2002-721. Ronald N. Tutor of Hidden Hills failed to timely disclose a late contribution totaling \$10,000 (one count). \$1,500 fine.

September Commission Meeting

Adoption of ALJ Decision

Leonard Ross and Committee To Elect Leonard Ross, FPPC No. 99/204. Leonard Ross was an unsuccessful candidate for the governing board of the Inglewood Unified School District in the April 6, 1999 election. The Committee To Elect Leonard Ross was his controlled committee. The commission issued an Accusation alleging that Respondents failed to timely file two pre-election campaign statements in violation of Government Code section 84200.8 (two counts), and failed to timely file three semi-annual campaign statements, in violation of section 84200 (three counts). Following a hearing in Los Angeles, Administrative Law Judge Eric Sawyer issued a proposed decision finding that Ross committed the five violations, imposing an administrative penalty of \$5,000, and ordering Ross to file the two semi-annual campaign statements. The commission accepted the proposed decision in its entirety.

Concealing True Source of Campaign Contributions

Mid-Valley Engineering, Inc., FPPC No. 99/720. Mid-Valley Engineering, Inc., a general engineering firm located in Modesto, made 112 campaign contributions in the names of its employees. The contributions were made to Modesto and Oakdale City Council candidates between 1997 and 1999, in violation of Government Code sections 84301 and 84300 (112 counts). \$185,400 fine.

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Campaign Reporting Violations

Elizabeth Cabraser, FPPC No. 02/425. Elizabeth Cabraser, a partner in a San Francisco law firm, failed to disclose \$20,000 in late contributions made to various California state senatorial candidates in 2000, in violation of section 84203(a) (three counts); and failed to file a semi-annual campaign statement, in violation of section 84200 (b) (one count). \$4,500 fine (four counts).

Conflict of Interest

Ronald Arnoldsen, FPPC No. 99/640. As a member of the Grover Beach City Council, Ronald Arnoldsen participated in and made a governmental decision concerning the sale of the city's old fire station property, which was located within 300 feet of his commercial property, in violation of Government Code section 87100 (one count). \$1,500 fine.

Civil Litigation Enforcement Action

The Fair Political Practices Commission reached a \$22,000 civil settlement with the **National Republican Congressional Committee's Non-Federal (California) committee and its treasurer**, for failing to disclose \$200,000 in late contributions made in connection with the Nov. 3, 1998, and Nov. 7, 2000, general elections.

The NRCC Non-Federal (California) committee is sponsored by the Republican members of the House of Representatives to support Republican candidates in California elections.

A civil lawsuit was filed by the FPPC in Sacramento Superior Court on Oct. 24, 2002. The final judgment, based on a stipulation signed by the FPPC and committee treasurer Donna Anderson, was approved Dec. 2 by Judge Loren McMaster.

Termination Deadline for Many State Committees Was December 31, 2002

By Trish Mayer
FPPC Political Reform Consultant

The Fair Political Practices Commission adopted regulation 18404.1 as part of its implementation of Proposition 34. This regulation, among other things, establishes specific time frames for candidates for elective state office and elected state officeholders to close their campaign committees formed for elective office. The regulation became effective on February 15, 2002.

The December 31, 2002, deadline for terminating campaign committees applies to:

—Former state officeholders who no longer held a state office as of February 15, 2002.

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A summary of enforcement cases and copies of many enforcement stipulations and civil settlements/orders are available on our web site,
<http://www.fppc.ca.gov>

Just click on "Enforcement" on the blue sidebar on the home page, and then click on "Summary of Past Enforcement Cases A-Z." Or just click here:

<http://www.fppc.ca.gov/index.html?id=224>

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— **Defeated state candidates** in elections held prior to February 15, 2002. Exception: candidates defeated in special elections held between January 1, 2001, and February 15, 2002, have until February 15, 2004, to terminate if their committees have net debts outstanding.

— **State officeholders (who held office on February 15, 2002) with pre-2001 election committees.** Exception: an officeholder elected prior to January 1, 2001, may retain **one** pre-2001 state election committee – all other pre-2001 committees must be terminated.

— **Local committees** controlled by a state officeholder who was elected prior to January 1, 2001.

It is strongly suggested that all former state candidates and current state officeholders check the Secretary of State's web site at <http://www.ss.ca.gov>, or call us at toll-free at **1-866-ASK-FPPC (866-275-3772)** to ensure that your committee(s) show a terminated status.

To terminate a committee, file a Statement of Organization (Form 410) indicating that the committee has been terminated, and a termination Recipient Committee Campaign Statement (Form 460) reflecting zero ending cash. (Regulation 18404.)

A committee may request to delay its termination for up to six months if it is continuing to receive contributions or anticipates receiving contributions for the purpose of paying debts, if the candidate or committee is a party to litigation, or for other good cause. The request for extension must be submitted to the Executive Director of the Fair Political Practices Commission no later than 30 days prior to the due date for the committee's termination.

State candidates and officeholders should check the FPPC's web site for the specific language of the regulation and the information sheet titled *Committee Termination Requirements for State Candidates*. The information sheet is available on the web site at

<http://www.fppc.ca.gov/pdf/Termination.pdf>.

Gift Limit Adjusted to \$340, Effective January 1, 2003

Contribution Limits, Voluntary Expenditure Ceilings Also Change

By Kelly Winsor
FPPC Legal Analyst

The Political Reform Act sets a limit on the amount of gifts that an official or designated employee may receive from a single source in a calendar year. The Act further provides that the gift limit will be adjusted biennially by the Commission to reflect changes in the Consumer Price Index (CPI). This process is authorized by Government Code sections 87103(e) and 89503(f).

Using the September forecast of the annual CPI for the year 2002 from the Department of Finance, the gift limit will be adjusted from \$320 to \$340 effective January 1, 2003 through December 31, 2004.

Proposition 34, passed by the voters in November 2000, created contribution limits and voluntary expenditure ceilings for state candidates (Government Code sections 85301, 85302, 85303 and 85400). Government Code section 83124, also added by Proposition 34, provides the Commission with the statutory mandate to adjust the contribution limits and voluntary expenditure ceilings in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index (CPI).

In August 2002, the Commission adopted regulation 18544, which created the formula for the biennial cost of living adjustment of the contribution limits and voluntary expenditure ceilings. The formula is similar to the formula used to calculate the biennial adjustment of the gift limit.

The adjusted contribution limits and voluntary expenditure ceilings, in effect for elections taking place January 1, 2003 through December 31, 2004, are outlined in a new fact sheet, available at <http://www.fppc.ca.gov/pdf/460discl3.pdf>, and in the chart on the next page (Page 7).

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**Per election Limits on Contributions to State Candidates
For Elections Occurring Jan. 1, 2003—Dec. 31, 2004***

Contributor	Legislature	Statewide Elected Officers	Governor
Person	\$3,200	\$5,300	\$21,200
Small Contributor Committee	\$6,400	\$10,600	\$21,200
Political Party	No Limit	No Limit	No Limit

**Calendar Year Limits on Contributions
For Elections Occurring Jan. 1, 2003—Dec. 31, 2004***

Contributor	Committee (Not Political Party) for State Candidates	Political Party for State Candidates	Committee/Political Party Not for State Candidates
Person	\$5,300	\$26,600	No Limit

**Proposition 34 Voluntary Expenditure Limits for Candidates for Elective State Offices
For Elections Occurring Jan. 1, 2003—Dec. 31, 2004***

Office	Primary/Special Election	General/Special Runoff Election
Assembly	\$425,000	\$744,000
Senate	\$637,000	\$956,000
Governor	\$6,374,000	\$10,624,000
Lt. Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Supt. Of Public Instruction, Treasurer	\$4,249,000	\$6,374,000
Board of Equalization	\$1,062,000	\$1,594,000

***These limits apply also to later elections until they are adjusted again by the Commission.**

Read the FPPC *Bulletin* On the Web or Via E-Mail

The newly redesigned FPPC *Bulletin* is now offered to readers only via the FPPC web site, <http://www.fppc.ca.gov>, or by e-mail subscription.

Printed copies of the *Bulletin* no longer are being mailed due to the Commission's increasingly tight budget situation and a plan to concentrate staff resources on web-based publications. Notice of this change was given in the September issue of the *Bulletin*, which was delivered by conventional mail as well as electronic means.

While we are now encouraging web access to the *Bulletin*, readers also can subscribe to the FPPC's e-mail *Bulletin* mailing list by sending an e-mail request to the *Bulletin* editor at jmatthews@fppc.ca.gov.

Over 420 Californians, representing the public and all facets of the regulated community, already have signed up to receive the FPPC *Bulletin* by e-mail. A number of positive comments have been received about the new format and delivery system.

FPPC
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)



Model Disclosure Categories For State Agencies

By Jeanette Turvill
FPPC Political Reform Consultant

At its October meeting, the Fair Political Practices Commission approved disclosure categories that can be used by state agencies when drafting conflict-of-interest codes. The adoption of the model categories is part of the Commission's year-long review of various issues related to the Political Reform Act's conflict-of-interest provisions.

Agencies often look to the Commission for assistance in drafting their conflict-of-interest codes, which define reportable interests required of agency employees. For example, most agencies require top level officials to disclose all their financial interests covered by the Act ("full disclosure"). One of the Commission's model categories addresses full disclosure. Also, almost all agencies need to create limited disclosure categories for designated employees with limited decision-making powers.

In addition to the model "full" disclosure category, the Commission approved language that can be used by agencies with regulatory, permit or licensing authority, agencies that are grant or service providers, as well as two general contracting disclosure categories that can be used by virtually every agency.

These categories are not intended to be all inclusive. The Commission recognizes that every agency is unique in function and purpose and may need to reword the model language, or add additional categories, to capture all conceivable conflicts of interest. The use of these categories is completely voluntary and is intended to help ease the burden for agencies developing language for disclosure categories. The model disclosure categories will be mailed to all state agencies as part of the biennial conflict-of-

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interest code review in early 2003. If, however, you are interested in obtaining a copy of the categories now, please call the Commission at (916) 322-5660 or toll-free at (866) 275-3772.

Please also consult the schedule of FPPC seminars below.

FPPC Seminars

Reservations Required!

To register for a seminar call the FPPC at (866) 275-3772 or (916) 322-5660, and press 3. Seminars are subject to change or cancellation. Call or check the FPPC web site, <http://www.fppc.ca.gov>, for updates.

Conflict-of-Interest Code Amendment Seminars for State Agencies

- **Tuesday, February 4, 2003**
1:30 p.m. - 3:30 p.m.
428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814
- **Wednesday, February 5, 2003**
10:00 a.m. - 12:00 noon
428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814

Seminars For Filing Officers

For City and County Filing Officers of Statements of Economic Interests:

- **Wednesday, February 19, 2003**
1:00 p.m. - 3:00 p.m.
428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814
- **Thursday, February 27, 2003**
10:00 a.m. - 12:00 noon

(Continued in next column)

428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814

For State Agency Filing Officers of Statements of Economic Interests:

- **Tuesday, February 4, 2003**
10:00 a.m. - noon
428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814
- **Thursday, February 20, 2003**
1:00 p.m. - 3:00 p.m.
428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814

For Multi-County Agency Filing Officers of Statements of Economic Interests:

- **Thursday, February 20, 2003**
1:00 p.m. - 3:00 p.m.
428 "J" Street, 8th Floor Hearing Room
Sacramento, CA 95814

For Local Office Candidates And Treasurers (Spring 2003 elections)

- **Napa**
Wednesday, January 8, 2003
6:00 p.m. - 8:00 p.m.
Napa City Hall,
955 School Street
- **Norwalk**
Thursday, January 9, 2003
7:00 p.m. - 9:00 p.m.
City Hall Council Chambers
12700 Norwalk Blvd.
- **Pasadena**
Tuesday, January 14, 2003
7:00 p.m. - 9:00 p.m.
City Hall Council Chambers, Room 247
100 North Garfield Avenue

(Also see the Lobbyist seminar schedule on Page 13)

Clerk's Corner



Post-Election Statement of Economic Interest Issues

By Adrienne Korchmaros
FPPC Political Reform Consultant

Now that the election is over and officials, both elected and appointed, will be leaving or assuming office, *remember to distribute statements of economic interests to those making the transition.* Out of sight, out of mind is a maxim that sometimes seems to apply in terms of getting departing officials to file their leaving office statements. It helps to make sure they get their statement promptly! And, of course, those who are being sworn in to office must file an assuming office statement of economic interests. There is an exception to this rule for state elected officers and those officials being re-appointed or re-elected.

Reminder to clerks!

Planning commissioners who are elected to the office of council member or county supervisor need not file an assuming office statement and leaving office statement if there has been no break in service.

Some clerks have asked if it is still appropriate to use the 2001/2002 statement of economic interests since we are nearing the end of the year. The answer is, yes, the 2001/2002 statement of economic interests is still the correct statement to distribute to those officials who are incoming and outgoing before the end of the year. The new 2002/2003 statement of economic interests will be distributed after its approval by our Commission. We expect to send them to you in the last week of December or first week of January.

Easy Annual Filing for Those Officials Who Are Running in a March 2003 Election

Those officials who are running in a March 2003 election may now file a "Form 700 Certification" to either certify that their economic interests have not changed since the filing of the candidate statement of economic interests, or if changes have occurred, to simply attach the applicable schedule to the certificate showing the new interest, rather than filing a whole new annual statement. We are anticipating this will be much easier for you and for the officials, but please let us know what you think.



Thanks For Helping Us Update Our Records!

In the past few weeks you have received a list of the filers we have on record as those whose statements of economic interests should be forwarded to the FPPC. We would like to thank you in advance for helping us keep our records as up to date as possible.

Post-Election Campaign Disclosure Statement Issues

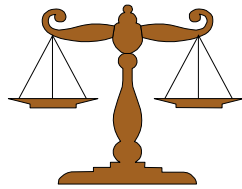
Unlike in years past, candidates who were defeated in the November election and have no committee need file nothing to close out their candidacies. Those who have a committee must, of course, continue to file as long as the committee stays open. The next statement is the semi-annual statement due January 31, 2003.

Having a March Election?

On our web site, <http://www.fppc.ca.gov>, we have posted a campaign statement filing schedule for those cities with a March 2003 election. Note that, because the semi-annual statement is due after the first pre-election, you may want to ask your candidates and committees to file both statements together on January 23, 2003. This will save filers the headaches of tallying figures for 2003 prior to having done the end-of-year statement for 2002! *You can go directly to the filing schedule at:*

<http://www.fppc.ca.gov/index.html?id=379>

Litigation Report



Pending litigation report presented to the Commission at its December 13, 2002, meeting, updated for more recent developments:

California ProLife Council, Inc. v. Karen Getman et al

This case involves a challenge to the Act's reporting requirements regarding express ballot measure advocacy. On October 24, 2000, the district court dismissed certain counts for standing and/or failure to state a claim. On January 22, 2002, the court denied a motion for summary judgment filed by plaintiff, and granted the FPPC's motion, after concluding that "the constitutional case or controversy requirement of ripeness cannot be satisfied." This resolved all claims in favor of the FPPC. The Court entered judgment accordingly on January 22, 2002, and on February 20, 2002, plaintiff filed a notice of appeal with the Ninth Circuit Court of Appeals. California ProLife Council, Inc. filed its opening brief on June 10, 2002. The FPPC and the Attorney General filed answering briefs on July 25, 2002, and appellant has since filed its reply. A hearing before the U.S. Court of Appeals for the Ninth Circuit is set for February 11, 2002.

Danny L. Gamel et al. v. FPPC

In September 2001, the Commission adopted the proposed decision of an administrative law judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of §§ 84300 – 84302. Plaintiffs contested this decision by writ of mandate in the Fresno County Superior Court. On March 21, 2002, the court upheld the Commission's determination that Dan Gamel and Rudy Olmos violated the Act, but vacated the finding against Gamel Inc. Penalties assessed against Dan Gamel were affirmed, but the court remanded

the case to the Commission for reconsideration of the penalty assessed against Mr. Olmos. Plaintiffs filed a notice of appeal of the superior court's decision regarding the fines assessed against Mr. Gamel and the findings against Mr. Olmos. The matter has been briefed by the parties and is now awaiting a decision by the court of appeal.

Levine et al. v. FPPC

On January 22, 2002, four publishers of "slate mail" – Larry Levine, Tom Kaptain, Scott Hart and the California Republican Assembly – filed suit in federal district court alleging that the Act's slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34. The status conference originally scheduled for April 29 was continued to June 10, 2002, to coincide with the hearing on plaintiffs' motion for preliminary injunction before Judge Lawrence K. Karlton, and both matters were continued again to July 29, 2002. At that hearing, the court declined to hold a status conference on the ground that its ruling on the preliminary injunction might affect pretrial scheduling. On September 25, 2002, the court entered a preliminary injunction barring FPPC enforcement of the challenged statutes against three of the four plaintiffs. The Commission decided not to appeal the preliminary injunction. The court has not yet issued a Scheduling Order or set a further status conference, which would establish a trial date and timelines for pretrial proceedings.

FPPC v. Californians Against Corruption et al

This case is now pending before the Third District Court of Appeal. The case stems from the FPPC's 1995 administrative prosecution of a recall committee that failed to properly itemize its contributors, in violation of section 84211 of the Political Reform Act. In November 1995, the FPPC issued a default decision and order against the defendants, imposing an administra-

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ative penalty of \$808,000. In January 1996, the FPPC filed a collection action in the Sacramento Superior Court to reduce the penalty to a civil judgment. The defendants responded by filing a cross-complaint/petition for writ of mandate in the superior court, contesting the default decision. In July 2000, the superior court dismissed the defendants' cross-complaint/petition for writ of mandate for failure to prosecute. In March 2001, the superior court granted the FPPC's motion for summary judgment in the collection action, and ordered defendants to pay the \$808,000 penalty plus interest. The defendants then filed this appeal in April 2001 and filed their opening brief in October 2001. The FPPC filed its response brief in April, and defendants timely filed their reply. The court requested supplemental briefing, which also has been completed. No date has yet been set for the hearing.

Peninsula Health Care District v. FPPC

This case challenges the Commission's recent Opinion, *In re Hanco*, O-02-088, adopted on August 9, 2002. In its opinion the Commission concluded that a customer of Ms. Hanco's employer could be a disqualifying source of income under certain circumstances, even though the customer dealt with Ms. Hanco's employer through an intermediary. A petition for writ of mandate was filed in the First District Court of Appeal on or about November 1, 2002. A week later, the court of appeal denied the writ without prejudice to re-filing in an appropriate superior court. On November 15, 2002, plaintiff filed a new petition in the Sacramento County Superior Court. A hearing is set for January 31, 2003, but the FPPC has requested a continuance to February 7, 2003.

Larry R. Daniels v. FPPC and Office of Administrative Hearings

This is a Petition for Writ of Mandate filed November 7, 2002, in the Sacramento County Superior Court, directed to the proposed decision of an administrative law judge which has not yet come before the Commission. The FPPC filed a preliminary opposition to the petition on November 12, 2002, asserting that Daniels had failed to exhaust his administrative remedies, since the

Commission has not yet adopted, modified or rejected the proposed decision of the administrative law judge, rendering the petition premature. The Commission was to consider the proposed decision at its December meeting. The court has not yet ruled on the writ petition.

The Governor Gray Davis Committee v. American Taxpayers Alliance

Plaintiff in this action sought injunctive relief relating to a television ad campaign, funded by defendant in June, 2001, which was critical of the Governor. In the lower court plaintiff successfully argued that the advertisement was express campaign advocacy, and that defendant therefore had reporting obligations as an independent expenditure committee under the Act. The lower court's decision was reversed on September 25, 2002, by the First District Court of Appeal. The appellate court rejected characterization of the advertisement as "express advocacy," and stressed its disagreement with an earlier federal decision in *FEC v. Furgatch* (9th Cir. 1987). This decision suggested that there are now two different standards for defining express advocacy, depending on whether the question is presented to a state or to a federal court. Plaintiff petitioned for review by the California Supreme Court. The FPPC and the Attorney General filed Amicus Letters with the Supreme Court supporting plaintiff's petition for review. The City of Los Angeles and the City of San Diego joined in a separate letter requesting that the Supreme Court order de-publication of the Court of Appeal's decision. The Supreme Court denied the petition for review and request for depublication on December 11, 2002.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions. The suit also alleges that the Agua Caliente Band failed to timely disclose more than \$1 mil-

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lion in late contributions made between July 1, 1998 and June 30, 2002. The FPPC has recently filed an amended complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002 ballot. The Agua Caliente Band has filed a Motion to Quash Service for Lack of Personal Jurisdiction, alleging that it is not required to comply with the Political Reform Act because of its tribal sovereign immunity. A hearing on that motion is currently set for January 8, 2003.

Web Site Update

The Fair Political Practices Commission has made all of its formal opinions available on the Commission's web site, <http://www.fppc.ca.gov>. To go directly to the opinions, use or click this web address:

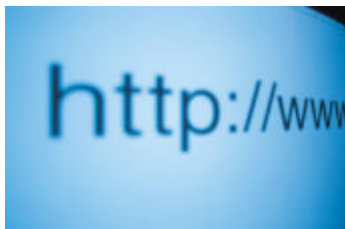
<http://www.fppc.ca.gov/index.html?id=297>

The Commission's formal opinions typically involve matters of significant public interest and substantial questions of interpretation of the Political reform act. The procedure for requesting and issuing formal opinion is detailed in FPPC Regulations 18320-18326. You can read the regulations on the web at:

<http://www.fppc.ca.gov/index.html?id=52>

Web Site Navigation Improved

FPPC staff members are improving and simplifying the navigation steps needed to access the many documents and publications available on our web site. For example, we have reduced the number of initial links on the left side of the home page. This should make it easier and faster for users of the site to access a subject area of interest. Further changes are planned and, as always, we welcome your feedback.



Lobbyist Ethics Courses Continuing

The Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics are conducting a new round of lobbyists' ethics courses in Sacramento and Los Angeles. There are several remaining dates scheduled.

Remaining Ethics Course Dates

Sacramento Convention Center

Thurs., Jan 16, 2003, 1:30-3:30 p.m. (full)

Friday, Feb. 7, 2003, 1:30-3:30 p.m.

Thurs., Apr. 24, 2003, 1:30-3:30 p.m.

In Los Angeles

Thurs., May 15, 2003, 1:30-3:30 p.m.

Government Code section 86103 requires lobbyists to complete this course as a condition of registration to lobby in the State of California. Any registered lobbyist (new or renewing) who has not completed his or her ethics course requirement for the 2003-2004 legislative session should attend one of these courses.

Any lobbyist who does not complete his or her ethics course requirement and fails to comply with the related filing deadlines is prohibited from acting as a lobbyist in California and may be subject to criminal penalties and substantial fines.

Contact Jeanie Myers at the Senate Committee on Legislative Ethics at **(916) 324-6929** for further information.

Please note: The ethics committees make every effort to provide notice of ethics course dates using information lobbyists submit to the Secretary of State's Political Reform Division. However, it is the responsibility of each lobbyist to obtain course information, to sign up for and attend one of these courses, as required.

As space is limited at each course, a completed sign-up form and the \$25 course fee must be received five days in advance of the course. Spaces are filled in the order that sign-up forms are received in the ethics committee office. You will be contacted if the course date you sign up for is full.

Legislative Update



The legislature adjourned on August 31, 2002, for its final recess. Governor Davis signed the bills listed below, which will take effect, unless otherwise noted, January 1, 2003. The Legislature convened on December 2, 2002, for the beginning of the 2003-2004 legislative session. A special session on budget issues, called by Governor Davis, convened December 9, 2002.

Legislation Taking Effect January 1, 2003

SB 2095 (Johnson) Chapter 511, Statutes of 2002, requires the Secretary of State to provide on its website independent expenditures linked to the candidate or ballot measure that is the subject of the independent expenditure. The bill also includes amendments requested by the FPPC which add legislative intent that filers be provided with a separate field in order to input the legislative district number or the number or letter of a statewide ballot measure.

AB 1797 (Harman) Chapter 233, Statutes of 2002, requires public office holders specified in Section 87200, who have identified a financial interest in a decision to: (a) publicly state the nature of the conflict, excepting the disclosure of an exact street address of a residence; (b) recuse himself or herself; (c) leave the room until the matter is concluded unless the matter is on the consent calendar. The bill has been amended to include an exception that permits an officeholder with a conflict of interest to speak on the issue during the time reserved for the general public.

AB 3032 (Committee) Chapter 663, Statutes of 2002, expands ethics training requirements to include all employees of a state agency who are required to file statements of economic interest. It would require employees to take the orientation once every 2 years.

SB 584 (Committee) Chapter 172, Statutes of 2002, eliminates the requirement that SEI filers

disclose loans from commercial lending institutions made during the normal course of business.

SB 1620 (Knight) Chapter 264, Statutes of 2002, would require appointees to newly created state and local boards and commissions to provide full SEI disclosure.

AB 2366 (Dickerson) Chapter 654, Statutes of 2002, provides that in jurisdictions with populations of 10,000 or less and counties with 350 or fewer retail businesses, retail sales income from a customer representing up to 1% of revenues would not be considered a disqualifying financial interest if the customers of the business constitute a significant segment (10%) of the public generally.

SB 1741 (Johnson) Chapter 211, Statutes of 2002, requires late contribution reports to indicate whether the contribution was a loan.

SB 1742 (Johnson) Chapter 212, Statutes of 2002, prohibits a candidate from returning to himself or herself contributions made by the candidate to his or her own campaign or controlled committee.

AB 2082 (Longville) Chapter 237, Statutes of 2002, would allow any elector of a county or municipality to seek a writ of mandate requiring that a ballot summary or title be amended.

SB 879 (Brulte) Chapter 499, Statutes of 2002, would extend the deadline for submittal of the final report of the California Bipartisan Committee on Internet Political Practices to December 31, 2003 and extends the Commission's Sunset date to January 1, 2004. This bill was an urgency statute and became effective when chaptered on September 12, 2002.

Legislative Priorities Discussed

A staff memorandum on proposed 2003 Commission legislative priorities, presented to the Commission on December 13, 2002, can be viewed on the FPPC web site at:

<http://www.fppc.ca.gov/Agendas/December02/legRep.pdf>

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

Campaign

C. April Boling, CPA
San Diego Police Officers Association
Dated: October 3, 2002
File Number: A-02-118

A union need not transfer funds collected from members by payroll deduction to a separate checking account.

Marcie Burgess
Anaheim Police Officers PAC
Dated: October 16, 2002
File Number: A-02-250

Volunteer precinct walking by board members or regular members of a PAC does not, by itself, constitute "coordination" with a candidate which would render independent expenditures made by

the PAC on behalf of endorsed candidates contributions. But PAC members who wish to walk precincts for an endorsed candidate should be cautioned not to have any discussions about the PAC's plans for independent expenditures with the candidate or campaign staff.

Diane M. Fishburn
Office of Insurance Commissioner
Dated: October 8, 2002
File Number: A-02-257

A candidate for statewide office in the November 5, 2002, election is not subject to the contribution limits imposed by Government Code §§ 85301 and 85302 to pay net debts of the committee in connection with that election. The candidate may accept post-election contributions in excess of the limits imposed by §§ 85301 and 85302 for the payment of those debts, and if the debts consisted of loans made to the committee prior to the election, the loans could also be forgiven in amounts in excess of those limits. The Commission has not yet decided whether a candidate for statewide elective office in the November 5, 2002, election, may continue to accept contributions in excess of the limits imposed by §§ 85301 and 85302 after his or her election-related debts have been repaid.

David Bauer
Irvine Homeowners Association
Dated: October 4, 2002
File Number: A-02-259

Other than major donor filing requirements, the Act does not impose additional filing obligations on a person who contributes to a committee that receives contributions for the purpose of making independent expenditures and which has identified several candidates who will be the targets of the independent expenditures. Under section 85501, a candidate's controlled committee may not make contributions to a committee that is set up to make independent expenditures supporting or opposing candidates.

Diane M. Fishburn
Office of Treasurer
Dated: October 25, 2002
File Number: A-02-271

This letter discusses the use of funds held by a statewide candidate on November 6, 2002, for fu-

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ture elections, pursuant to section 85306(c) of the Act. Among other things, the letter concludes that the 2002 committee of a statewide candidate may transfer funds held by the committee on November 6, 2002, after that date to a committee that the candidate may form for a different statewide office in the 2006 election.

Chris Everman
SacCity On-Line Campaign Filing
Dated: September 27, 2002
Our File Number: I-02-012

On campaign reports, controlled committees must itemize payments made by officeholders for civic donations and contributions at the threshold of \$100, under section 84211(k).

Thomas W. Hiltachk
California Republican Party
Dated: September 20, 2002
Our File Number: A-02-233

Regulation 18531.7 was withdrawn by the Commission pending reconsideration of the regulation at its October 2002 meeting. Any revisions which may occur at the October meeting would not alter the Commission's prior determination that the regulation does not govern conduct by the California Republican Party.

Aldo Giacchino
City of Santa Cruz
Dated: September 27, 2002
Our File Number: A-02-235

Payments for legal expenses incurred by a candidate in an effort to challenge whether or not his opponents' names should appear on the ballot are campaign "expenditures." As such, they must be paid for from campaign funds and reported on the candidate's campaign statements.

C. April Boling, CPA
San Diego County Republican Central Committee
Dated: September 26, 2002
Our File Number: A-02-262

Payments by a political party committee, that otherwise may constitute "member communications," nonetheless trigger a pre-election filing requirement. Pursuant to section 85312, political party committees' reporting obligations with respect to "member communications" are the same as they were before

the voters adopted Proposition 34 and section 85312.

Leslie Cook, CMC
City of Santa Cruz
Dated: August 6, 2002
File Number: I-02-061

A request that the Commission review the campaign ordinance for the City of Santa Cruz to ensure that the ordinance does not conflict with the Political Reform Act is addressed in this letter.

Diane Fishburn
CalPERS
Dated: August 22, 2002
File Number: I-02-196

This letter addresses when an election cycle commences for CalPERS elections and the filing obligations belonging to primarily formed committees for a CalPERS board election.

Laurence S. Zakson
Laborers International Union of North America, Local 300
Dated: July 9, 2002
Our File Number: A-01-195

A labor union which qualifies as a committee is required to report all payments including those made for the purpose of communicating with the organization's members.

Jeff Koontz, Executive Director
Diamond Bar Chamber of Commerce
Dated: July 17, 2002
Our File Number: I-02-149

A cable television program that is produced by the chamber of commerce and co-hosted by a city council member is neither an independent expenditure nor a contribution. However, the analysis would change if the program contained express advocacy, references to the city council member's candidacy for elective office or the city council member's opponents for elective office or solicited contributions.

John A. Ramirez
Lou Lopez for Supervisor
Dated: July 26, 2002
Our File Number: A-02-167

Assuming the transfer is lawful under local law, the

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Act permits campaign funds from an individual's city council committee to be transferred to his supervisorial committee and used to repay a personal loan.

Mark Anthony Dierolf

Monterey County

Dated: July 17, 2002

Our File Number: A-02-175

A general purpose ballot measure committee is not prohibited from forming under the Political Reform Act and may be controlled by a candidate or officeholder as long as the committee does not make payments supporting or opposing candidates, including the controlling candidate.

Cynthia A. Trujillo, CMC

City of San Gabriel

Dated: July 11, 2002

Our File Number: I-02-177

The combination of the semi-annual and first pre-election campaign filing deadlines in connection with the City of San Gabriel's August 27 ballot measure election is discussed.

Andrea Leiderman

Friends of Andrea Leiderman

Dated: July 25, 2002

Our File Number: A-02-181

A local candidate may redesignate an existing committee only for future election to the same office. Surplus campaign funds may not be used for expenses associated with either running for or holding future office.

Gabriel A. Godinez, City Clerk

City of Arvin

Dated: July 24, 2002

Our File Number: I-02-186

The combination of the second pre-election and semi-annual campaign statements in connection with the city's August 13 special mayoral election is addressed.

Cheryl I. Butler

Court of Appeal

Dated: July 29, 2002

Our File Number: I-02-187

Candidates for appellate court justice are not required to file a statement of economic interests.

Successful incumbent candidates must continue to file annually.

Elliott Cohen

City of Berkeley

Dated: July 29, 2002

Our File Number: I-02-191

This letter discusses the statements that must be filed when an individual qualifies as a candidate under section 82007.

Conflict of Interest

Rory Jaffe, M.D.

U.C. Davis

Dated: October 31, 2002

File Number: I-02-154

The conflict of interest provisions of the Act do not apply to a doctor's decisions with respect to a specific patient's course of treatment.

Michael F. Harris

Dept. of Fish & Game

Dated: October 18, 2002

File Number: A-02-239

An agency is advised on the issues surrounding the hiring of an outside "consultant" to assist the agency in the formation of a Request for Proposal for an automated data system. The letter concludes that the outside contractor would not be a "consultant" for purposes of the conflicts provisions of the Act.

Robert Ovrom

City of Burbank

Dated: October 3, 2002

File Number: A-02-254

A public official cannot participate in a governmental decision that has a personal financial effect on the official or a member of his or her immediate family. However, if the family member who will be affected financially by the decision is an adult child, as in this case, no conflict of interest exists for the public official.

The Honorable George C. Runner, Jr.

California Assembly

Dated: October 4, 2002

File Number: I-02-267

The Assembly member asked about the duties of

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an individual who was a candidate for a local hospital district and possibility that the individual would have conflicts of interest were he to be elected. Commission staff declined to advise the Assembly member regarding another's duties under the Act. However, a general discussion of the conflict-of-interest rules of the Act was provided.

Jean B. Savaree

City of Belmont

Dated: October 29, 2002

File Number: A-02-268

A public official does not have a conflict of interest concerning a park renovation located 550 feet from his personal residence as long as it is not reasonably foreseeable that the decision will have a material financial effect on his residential property.

Heather McLaughlin

City of Benicia

Dated: September 6, 2002

Our File Number: A-02-045

The members of the Benicia City Council and the city manager, who have real property interests within 500 feet of the boundaries of a storm drain project area, are advised that those interests are indirectly involved in project decisions. The project qualifies under regulation 18704.2(a)(5) as a "repair, replacement, or maintenance of streets, water, sewer, storm drainage or other facilities" and the public officials' economic interests in real property are thereby deemed indirectly involved in the project decisions. It is presumed that project decisions will have no material financial effect on indirectly involved real property interests.

Marguerite P. Battersby

City of Highland

Dated: September 25, 2002

Our File Number: A-02-216

A commissioner does not have a conflict of interest provided he does not have an economic interest in his adult son.

Orry P. Korb, Town Attorney

Town of Los Gatos

Dated: September 20, 2002

Our File Number: I-02-224

A public official does not have a conflict of interest on a permit application regarding the location of a

wireless communication facility, as long as the wireless communication company does not have a reasonably foreseeable material financial effect on the public official's business or its clients.

Milan Petrovich, Vice Mayor

Brentwood City Council

Dated: September 19, 2002

Our File Number: A-02-225

A city council member with ownership interest in a commercial office building located within a project study area has a conflict of interest prohibiting his voting to approve or disapprove siting of a new city parking structure within this study area. He may not vote on competing site locations unless the decision on siting the structure within the first area has been previously segregated and made without his participation. He may participate in subsequent siting decisions as long as they do not re-generate the decision from which he is disqualified.

Brien J. Farrell

City of Santa Rosa

Dated: September 30, 2002

Our File Number: I-02-227

A mayor who is also a paid executive director of a non-profit organization does not have a conflict of interest barring his participation in decisions having a material financial effect on members of the organization since those members do not control the personnel and other decisions of the organization. Although a nexus might exist between the mayor's decisions in public office and the purpose of his private employment, since the governmental decisions will have no material financial effect on his private employer, regulation 18705.5 applies and the mayor will not have a disqualifying conflict of interest. The "nexus test" applies to a public official who is also a high-level private employee with direct influence or control over his or her employer's management or policy decisions. The "nexus test" does not ordinarily apply to mid-level employees.

Heather C. McLaughlin

City of Benicia

Dated: September 16, 2002

Our File Number: A-02-231

A council member may participate in decisions regarding the use of in-lieu fees to upgrade a park-

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ing lot within 500 feet of his real property where the decisions concerning the upgrade to the parking lot are legally limited to the area of the lot beyond 500 feet of the council member's property, and these decisions are not interrelated to any decisions affecting any sites within 500 feet of the council member's property.

Linda L. Daube
City of Pittsburg
Dated: September 25, 2002
Our File Number: A-02-232

The letter addresses whether shares of stock in a corporation held by two planning commissioners give rise to a conflict of interest for the planning commissioners with respect to decisions on two projects.

Clothilde V. Hewlett
Department of General Services
Dated: September 25, 2002
Our File Number: I-02-234

The Department of General Services requested advice regarding their contractor/consultant whose scope of work included providing technical/professional advice to the state in selecting and developing a site for a state building (the new courthouse for the Fifth District Court of Appeal in Fresno). The consultant was hired as the engineer/architect for the new building. The developer of the site chosen also hired this consultant to provide engineering/architectural services for their half of the same site. This created a potential conflict of interest. The consultant's income from the developer may require him to be disqualified from making, participating in making or influencing a governmental decision by providing technical and professional advice to the State in developing the site. Since the request included past conduct, only general conflict-of-interest advice was provided.

Heather Mc Laughlin
City of Benicia
Dated: September 17, 2002
Our File Number: I-02-236

The letter provides follow-up advice on behalf of two council members regarding council decisions pertaining to the use of two city lots. One council member owned property within 500 feet of one of the lots, and the other council member owned

property within 500 feet of the second lot. Since the two lot decisions were inextricably related, the decisions could not be segmented and both council members were disqualified as to both decisions.

Clare M. Gibson
City of Larkspur
Dated: September 4, 2002
Our File Number: A-02-237

Rental of a business office on a month-to-month basis does not constitute an interest in real property. However, decisions that may affect personal finances by \$250 or more in a 12-month period (such as rent) would create a conflict of interest.

Ron Rogers
Imperial Beach City Council
Dated: September 16, 2002
Our File Number: I-02-238

Pursuant to regulation 18705.2(b), the financial effect on the individual source of income's real property is presumed not to be material, absent specific circumstances. This would be the case irrespective of the proximity of the source's property to the project site.

Harry A. Knapp, Mayor
City of South Pasadena
Dated: September 20, 2002
Our File Number: A-02-240

A member of the planning commission may make presentations before the design review board on behalf of clients of her architectural business. She may not, however, purport to be a member of the planning commission while making those presentations. Additionally, the planning commissioner may respond to necessary contact with agency staff concerning the processing or evaluation of drawings.

Anthony J. Portantino
La Cañada/Flintridge
Dated: September 20, 2002
Our File Number: A-02-242

A council member is advised that decisions on a property subdivision when that property is located 1,555 feet from the council member's residence, are presumed not to have a material financial effect on the council member's residence. The presence of special circumstances relating to the deci-

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sion that affects the neighborhood in which his residence is located is a factual question, as is the delineation of his neighborhood, that varies according to the circumstances. There is no uniform rule defining a specific geographic area as "the neighborhood" for purposes of determining a decision's effect upon characteristics of the neighborhood in which is located a public official's real property interest.

Milan Petrovich, Vice Mayor
City of Brentwood
Dated: September 25, 2002
Our File Number: I-02-245

A public official owns a restaurant that serves the public and offers catering as well. He is prohibited from voting in any governmental decision that will have a direct or indirect material financial effect on any of his sources of income. Since he owns 50 percent of the business, any source of income to the business in the 12-month period before a governmental decision of which his pro rata share is worth \$500 or more is a potentially disqualifying economic interest.

Michael R. Jones
City of Chico
Dated: September 25, 2002
Our File Number: I-02-256

Conflicts of interests under the Act are based on financial effects. Thus, so long as a park commissioner does not make, participate in making, or influence a decision in which he has an economic interest, the commissioner will not have a conflict of interest. This is true even where the commissioner provides volunteer services to the parks department.

John F. Petrini
City of Bakersfield
Dated: September 27, 2002
Our File Number: A-02-263

The Bakersfield mayor does not have a conflict of interest preventing him from presenting his solely owned company's rate change application to the city council for approval. Under regulation 18702.4(b)(1), a public official is not "influencing" a governmental decision when he or she appears before the agency as a member of the general public to represent himself or herself on matters related solely to the official's personal interests, including an inter-

est in a business wholly owned by the official or members of his or her immediate family. The mayor may not invoke the "legally required participation" exception to cast a tie-breaking vote on the city council's consideration of the rate change application. The same holds true even should the application be presented by a company employee other than the mayor.

Claire M. Sylvia
SF Board of Education
Dated: August 27, 2002
Our File Number: I-02-176

The terms "salary, per diem or reimbursement for expenses" in regulation 18232, which interprets and applies the "government salary exception" to the definition of "income" at § 82030(b)(2), are sufficiently broad to include various collective bargaining provisions in a school district's agreement with the teachers' union.

Larry Broedow
State Allocation Board
Dated: August 29, 2002
Our File Number: I-02-206

An individual who becomes employed at an Assembly member's field office must disqualify himself from participating in decisions affecting any source of income. Additionally, the individual cannot use his position with the Assembly member to influence any decision before any other governmental agency if the decision will affect a source of income.

Steven T. Mattas
City of Milpitas
Dated: August 22, 2002
File Number: A-02-076

Based on the analysis of factors described in regulation 18706(b), it is not reasonably foreseeable that a planning commissioner's economic interests will be materially affected by a decision on a housing element.

Marguerite P. Battersby
City of Adelanto
Dated: August 12, 2002
File Number: I-02-141

A city attorney was advised that since Govt. Code § 995 entitles the mayor to a defense in a civil action over his on-the-job decisions at public ex-

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pense, the mayor has no economic interest in his personal finances at stake, and may vote on those decisions concerning litigation against the city or himself, in his official capacity. Regulation 18702.4 permits the mayor to be involved in the city's decision whether to retain separate counsel for his defense, since this decision is considered a decision relating to the terms or conditions of his employment. Plaintiff city council members do not fall under Govt. Code § 995 and thus, their personal finances may be affected by governmental decisions concerning this litigation, and they have a disqualifying conflict of interest.

Heather C. McLaughlin

City of Benicia

Dated: August 7, 2002

File Number: A-02-132

The officials have a conflict of interest with respect to both the sale of the lot beyond the 500-foot boundary as well as the construction of the affordable housing units within the 500-foot boundary if the decisions are interlinked. If the decisions may be segregated, one of the officials can participate in the decisions.

George Fuller

Teachers Association of West Covina

Dated: August 20, 2002

File Number: I-02-189

General advice is provided concerning what constitutes a gift and details are given describing the disclosure requirements for a gift. This advice letter also gives a general conflict-of-interest analysis concerning gifts, as well as a segmentation overview.

Shahir Haddad

Department of Toxic Substances Control

Dated: August 28, 2002

File Number: I-02-199

A general discussion of conflict-of-interest laws as applied to an engineer for the Department of Toxic Substances Control who wants to obtain part-time consulting employment in addition to his present employment.

Lee Yarborough

Transportation Agency of Monterey County

Dated: August 13, 2002

File Number: G-02-212

No advice provided on incompatible offices. General assistance regarding conflicts of interest.

Howard Laks, AIA

City of Santa Monica

Dated: August 16, 2002

File Number: A-02-215

A member of the Santa Monica Architectural Review Board was advised that he may appear before the city planning commission in his private capacity, to present an appeal of an ARB ruling against his client's development proposal. The planning commission is not the same agency as, or under the budgetary authority of the ARB. In this presentation, the official must not represent himself as speaking in his official capacity.

Frederick G. Soley, City Attorney

Vallejo City Council

Dated: July 3, 2002

Our File Number: A-01-306

The members of the council may participate in decisions regarding the residential rental inspection program if their real property interests will not be affected in a manner different from the public generally.

David R. Hunt

City of Pismo Beach

Dated: July 10, 2002

Our File Number: A-02-073

The concerns of three different public officials regarding participation in the adoption of a specific plan and their possible conflicts of interest are addressed in this letter. Each public official was found to have a disqualifying conflict of interest.

Kathryn E. Donovan

Office of the Treasurer

Dated: May 1, 2002

Our File Number: A-02-078

With respect to a blind trust established by the State Treasurer, the treasurer may not prescribe in the trust instrument certain categories of assets to which the trustee would be limited in investing the assets of the trust, even with the trustee given

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complete discretion within the parameters of the various categories, because regulation 18235 provides that the trustee is to have complete discretion in managing the trust. If the filer prescribes the categories of assets in which the trustee may invest, it would infringe on the trustee's discretion, and would begin to erode the separation between the trustee and the public official that is critical to the concept of the blind trust as a vehicle for removing obstacles to investments by public officials. Other issues related to blind trusts are considered and regulation 18235 is construed.

Diane L. Dillon
Napa County Board of Supervisors

Dated: July 16, 2002

Our File Number: I-02-082

The letter addresses identification of the economic interests of a public official, including those based on the official's partnership in a law firm.

Leslie E. Murad, II
Redlands City Council

Dated: July 22, 2002

Our File Number: I-02-100

A council member is advised that since her ownership interest as a partner in her employer's accounting firm is less than 10 percent, clients of the accounting firm are sources of income to her and are not among her economic interests under the Act. Thus, she may vote on city council decisions concerning clients served by the accounting firm.

Dawn C. Honeywell
City of Irwindale

Dated: July 24, 2002

Our File Number: I-02-101

The city attorney is advised that conflict-of-interest provisions of the Act do not bar a public official, when acting in a private capacity, from retaining a general contractor who also performs work for the city. Public officials may also apply for benefits under publicly funded housing programs, but may not subsequently make, participate in making or influence any governmental decisions concerning their application. A city council member receiving these benefits may vote on changes to the housing benefits program, pro-

vided that the program changes cannot be reasonably foreseen as affecting his or her personal finances by \$250 or more over a 12-month period, unless the "public generally" exception applies.

Julie Hayward Biggs
City of Goleta

Dated: July 10, 2002

Our File Number: A-02-102

A discussion of regulation 18707.1 and the application of the "public generally" exception. The "public generally" exception likely would apply where the public official's primary residence will be affected in substantially the same manner as all those property owners near the site in question. The public official must make this determination, since the Commission does not act as a finder of fact.

John E. Brown
City of San Jacinto

Dated: July 19, 2002

Our File Number: A-02-103

The "public generally" exception will not apply in a conflict-of-interest decision before the vice mayor because one or more of his economic interests will experience a unique financial effect as a result of the decision.

Victoria Pointer, Mayor Pro Tem
City of Buellton

Dated: July 16, 2002

Our File Number: A-02-128

Members on a city council inquire as to their participation in a vote affecting real property beyond 500 feet from their homes. Because it was unclear whether the construction of a street extension would lend itself to a substantial increase in traffic within 500 feet of the two council members' respective homes, staff could not reach a definitive conclusion whether a conflict of interest exists.

Stephen P. Deitsch, City Attorney
City of Big Bear Lake

Dated: July 2, 2002

Our File Number: A-02-129

Exceptions to the Act's conflict-of-interest rules are narrowly construed. Regulation 18702.4(b)(1)

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(C) provides an exception where an official may represent his or her "personal interests" in a business over which the official exercises sole direction and control. The exception is limited to a situation where there are no other personnel of the company who may be delegated the authority to appear before the official's body.

Daniel S. Hentschke
San Diego County Water Authority

Dated: July 26, 2002

Our File Number: A-02-142

It is reasonably foreseeable that a public official's economic interests will experience a material financial effect where the economic interest is directly involved in the governmental decision.

Howard Laks, AIA
City of Santa Monica

Dated: July 29, 2002

Our File Number: A-02-155

The discussion concerns whether a member of an architectural review board, also a private architect, is allowed to present a client's appeal of an architectural review board decision to the planning commission. The architect is allowed to present to the planning commission so long as: 1) the planning commission is not appointed by or subject to the budgetary control of the public official's agency, and 2) the public official does not purport to act in an official capacity as an architectural review board member.

Ron L. Cotten, Treasurer
Macedo for Manteca City Council

Dated: July 24, 2002

Our File Number: A-02-157

A sale of an improved vacant building site for fair market value is not a gift under the Act even though the seller does not typically engage in this type of sale. However, if the lot was considered to be a gift, then the purchase may affect the public official's ability to vote on issues concerning the seller. The burden is on the public official to prove that adequate consideration was provided by the official.

Marcia H. Armstrong
Siskiyou County Farm Bureau

Dated: July 16, 2002

Our File Number: I-02-166

The conflict-of-interest provisions will not apply until this elected city council member assumes office. At that time, all economic interests including the income from her employer, could be the basis for a conflict of interest.

Gary T. Ragghianti
City of Larkspur

Dated: July 10, 2002

Our File Number: A-02-170

A council member owns residential property within 500 feet of a proposed project. He may participate in the specific plan decisions regarding the project if, in fact, there will be no financial effect on his residential property.

Don Ramos
Aptos/La Selva Fire District

Dated: July 22, 2002

Our File Number: I-02-173

The Act does not prohibit a public official from holding a position on the same board on which his spouse serves.

The Honorable John Campbell
State Assembly

Dated: July 17, 2002

Our File Number: I-02-180

A legislator may have a conflict of interest in a vote on legislation that will have a foreseeable and material financial effect on his source of income. However, if the effect will be substantially the same as the effect on the public generally, the legislator may vote despite the conflict of interest.

Adolfo E. Miralles, FAIA
West Altadena Project Area Committee

Dated: July 25, 2002

Our File Number: I-02-182

An architect and member of a project area committee may prepare and submit drawings or submissions of an architectural nature on behalf of the developer. However, the public official's contact with agency staff is limited to responding to staff questions, obtaining clarification of staff requests, and communicating with staff regarding

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the movement of submissions through the approval process. The public official may not appear before his own committee in representing a client's interests.

Drusilla van Hengel
City of Santa Barbara Public Works
Department
Dated: July 25, 2002
Our File Number: A-02-183

A public official who owns residential property within an area designated for a pilot program may not participate in decisions regarding the pilot program.

Lisa A. Grigg
Tahoe City Public Utility District
Dated: July 29, 2002
Our File Number: I-02-184

A member of the board of directors of a public utility district may vote on a new policy that would provide the same health insurance benefits to employees of the district involved in domestic partnerships, which are already available to other employees with spouses, because the decisions will not affect the official's personal finances beyond the salary and benefits the official receives from his or her governmental agency.

Thomas R. Egan
City of Costa Mesa
Dated: July 29, 2002
Our File Number: I-02-194

Nothing in the Act prohibits the requestor from running for or holding office in the same city for which his wife is a planning commissioner.

Howard Laks, AIA
City of Santa Monica
Dated: July 29, 2002
Our File Number: A-02-195

The discussion concerns whether a member of an architectural review board, also a private architect, is allowed to discuss a client's project with city planning staff and appear before the planning commission, the landmarks commission or the city council. The architect is allowed to present and discuss so long as: 1) each agency is not appointed by or subject to the budgetary control of the public official's agency, and 2) the public official

does not purport to act in an official capacity as an architectural review board member.

Conflict-of-Interest Code

Robert Dresser
CA Labor & Workforce Development Agency
Dated: October 11, 2002
File Number: A-02-249

The staff on loan to the new California Labor & Workforce Development Agency ("CLWDA") from other state agencies must continue to file statements of economic interests under the conflict of interest codes for the other agencies. Individuals designated in CLWDA's conflict of interest code will be required to file once a code has been approved for CLWDA. Recently enacted legislation will require members of any boards and commissions created by CLWDA on or after January 1, 2003, to file statements in the same manner as those individuals required to file pursuant to section 87200, until CLWDA includes them in its code. (Section 87302.6 added by SB 1620 (Knight), signed by the Governor on August 24, 2002, effective January 1, 2003.)

Alister McAlister
California Legislature
Dated: October 31, 2002
File Number: A-02-273

A former member of the Legislature is advised that funds raised prior to 1989 are governed by the Elections Code.

Dan Carter
Yosemite Sierra Visitors Bureau
Dated: September 12, 2002
Our File Number: A-02-202

The Yosemite Sierra Visitors Bureau is not a local governmental agency and does not need to adopt a conflict of interest code.

Val R. Fadely
Capistrano Unified School District
Dated: September 26, 2002
Our File Number: A-02-223

A charter school operated by a nonprofit public benefit corporation is a local government agency (pursuant to the *Siegel* opinion). It must adopt a

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conflict of interest code and the board members are subject to the disclosure (SEI) and disqualification (conflict of interest) provisions of the Act.

David R. Chapman
Port of San Diego
Dated: August 20, 2002
File Number: A-02-115

The San Diego Port District seeks clarification of the port district's jurisdiction for purposes of financial reporting under § 87302 of the Act. The port district was advised that their jurisdiction for financial reporting purposes, extends to the geographic boundaries within which the port district exercises any facet of its jurisdiction. In light of 1996 amendments to the San Diego Unified Port District Act, the financial reporting obligations extend to economic interests located in the corporate areas of San Diego, Coronado, Chula Vista, National City and Imperial, and the unincorporated territory in San Diego County contiguous thereto, and economically linked to the development and operation of San Diego Bay.

Honoraria

Robert Conover
California Department of Insurance
Dated: September 5, 2002
Our File Number: A-02-207

A senior life actuary and designated employee may accept earned income for personal services which are customarily provided in connection with the practice of a bona fide business such as teaching. These personal services do not qualify as honorarium and are not subject to those restrictions.

Robert J. Spane
Port of San Diego
Dated: July 23, 2002
Our File Number: A-02-094

A port commissioner under contract with a university to teach in its program could accept payment for his services, which were provided in connection with the practice of a bona fide business, trade or profession, i.e. teaching, which is an exception to the honoraria ban. However, speaking engagements for organizations other than the uni-

versity would not meet this exception and those payments would be prohibited honoraria.

Lobbying

Jack T. Molondanof
Holloway, Rasmusson & Molondanof
Dated: October 11, 2002
File Number: A-02-277

Nothing in the Act prohibits a lobbying firm from contracting to represent a local governmental agency before the state Legislature, including a local agency the firm lobbies for other clients.

Scott M. Lay
Community College League of California
Dated: September 18, 2002
Our File Number: A-02-214

A lobbyist, who also is a member of a county central committee for a major political party, is advised on compliance issues with respect to the prohibition on lobbyist contributions to those officeholders and candidates the lobbyist is registered to lobby.

Mass Mailing

Henry Perea
City of Fresno
Dated: September 27, 2002
Our File Number: A-02-260

In order for a public official to fall within the "letterhead exception" for mass mailing, there must not be any additional references made to the official in the letter, absent an additional exception as referenced in 18901(b)(1). Otherwise, a flyer sent out to residents with references to the public official from his or her office is subject to the 200-item limit.

Gift Limits

Michael Rood
City of Calexico
Dated: October 11, 2002
File Number: A-02-261

The city redevelopment agency is to be reimbursed by a Chinese investor's group for the cost of sending three city officials to China. Since the city did

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not exercise sole discretion in selecting the officials to make the trip (officials were invited by the investor group and identified by office and/or name in the invitation), the exception of regulation 18944.2 does not apply. Reimbursement will be a gift to the officials, not the agency, subject to the gift limits and reporting. The gift would also invoke conflict-of-interest provisions of the Act.

David Lau
City of Monterey Park
Dated: October 29, 2002
File Number: A-02-282

A raffle prize won by a city council member in a bona fide competition is considered income, thereby the amount is not constrained by the gift limits of the Act. The income is reportable on Form 700 and may subject the filer to disqualification provisions of the Act and provisions contained in Article XII, Section 7 of the California Constitution.

Lisa A. Foster
City of San Diego
Dated: August 28, 2002
File Number: I-02-213

A general discussion of the concepts underlying the notion that payments made at an elected official's behest for an event honoring a public service non-profit organization are not contributions to the elected official since the payments for the event are principally for charitable purposes.

Revolving Door

Gail J. Hodyke
Los Alamos National Lab
Dated: October 3, 2002
File Number: I-02-253

The Commission will decline to provide advice in response to requests on behalf of unnamed individuals. However, there are no statutory exceptions for University of California employees from the revolving doors provisions of the Act.

Arturo Ramudo
CA Board of Accountancy
Dated: October 21, 2002
File Number: A-02-283

A former employee of the California Board of Ac-

countancy ("CBA") may act as a consultant to a certified public accountant in a proceeding before the CBA to revoke the accountant's license. The former employee did not participate in this proceeding while in state service and ceased employment with CBA in 1993. Neither the one-year nor permanent bans under the Act's post-employment provisions apply in these circumstances.

Mary A. Dixon
California Health & Human Services Agency
Dated: September 30, 2002
Our File Number: I-02-174

The Health and Human Services Data Center seeks advice on applying the post-employment provision's one-year ban to a situation where a former employee will be posted as a private consultant to the data center to administer, implement or fulfill the terms of an existing contract. Regulation 18746(b)(5)(A) exempts such conduct for the one-year ban, although the permanent ban would apply if the former employee participated in the administration of the contract while a state employee. An "existing contract" for this purpose also means a contract reached after the former official's departure from state service. Once the negotiating of the contract is completed, the contract is considered to be an "existing contract," as of its effective date. If performance of an existing contract results in amending, revoking, awarding or issuing any other contract, it does not render the "existing contract" exemption void and such performance still falls outside the one-year ban.

Byron Roberts
Department of Health Services
Dated: September 12, 2002
Our File Number: A-02-190

A former employee of the Department of Health Services will be posted by a new private employer to the former agency to serve as a contract employee in the position of senior project manager business analyst. The former official is advised that appearances and communications with the former agency are not barred by the one-year revolving door ban since they will occur to fulfill or implement an existing contract. A new contract between the agency and the employer, once it comes into existence, is an "existing contract"

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within the meaning of regulation 18746.1(b)(5)(A). A former state employee is not prohibited under the one-year ban from communicating with, or appearing before, his/her former agency to administer, implement or fulfill the terms of this contract.

C. Dennis Ericson
Dept. of General Services
Dated: September 11, 2002
Our File Number: I-02-198

The preparation of the master contractor list was done under a former state administrative official's supervisory authority. Therefore, a permanent ban under the Act's post-employment provisions bars the former official from "switching sides" in this proceeding. Any contract executed between a contractor on this list and another state agency is a new contract and the permanent ban will not apply to that new "proceeding." In re *Lucas* (2000) 14 FPPC Ops. 15 and *Brown* Advice Letter A-91-033 are harmonized in support of this result.

H. John Corum
State Board of Equalization
Dated: September 25, 2002
Our File Number: A-02-258

A former BOE employee is advised that, for purposes of the post-employment provisions of the Act, his former state administrative agency employer is the California State Board of Equalization and its constituent departments and divisions, not just the particular division thereto which he was last assigned. Contested property appraisals and tax audits are "judicial, or quasi-judicial" proceedings under the meaning of the Act and are, for that reason, not subject to the one-year ban; the former official may represent clients before the BOE concerning these matters, unless the permanent ban applies. Further, the former official may represent clients in these matters when the matter is before an administrative law judge. Section 87406(d) is a statutory exception whereby an appearance before an ALJ is not an "appearance" for purposes of the post-employment provisions of the Act.

Steven K. Chan
Board of Equalization
Dated: July 24, 2002
Our File Number: I-02-084

The revolving door provisions of the Act and how

they apply to a supervising tax auditor at the Board of Equalization are addressed in this letter. Under the permanent ban, the auditor would be prohibited from aiding, advising, representing or otherwise assisting a taxpayer regarding any tax audits or other matters in which he participated or supervised as a state employee. However, the auditor would be allowed to represent the same taxpayer on a different audit with the Board of Equalization, or any other proceeding in which he was not involved. The one-year ban does not regulate tax audits.

Barbara Brandes
CA Department of Education
Dated: July 11, 2002
Our File Number: I-02-134

Post-employment restrictions of the Act apply to a California Department of Education designated employee contemplating post state employment with a non-profit service organization which will contract with local educational agencies receiving state funding. The employee may not make, participate in making or use his/her official position to influence governmental decisions directly relating to or having a reasonably foreseeable material financial effect upon any party with whom the employee is negotiating prospective employment. The conflict-of-interest provisions also apply.

Nyle Baker
Prison Industry Association
Dated: July 11, 2002
Our File Number: A-02-151

A former Prison Industries Authority ("PIA") manager is given advice that a permanent ban under the Act's post-employment restrictions prohibits him from advising his new employer or appearing/communicating on the new employer's behalf before the Prison Industry Authority regarding a contract in which he participated as a PIA employee. The one-year ban prohibits appearing or communicating with the PIA, but he may advise his new employer on a new contract with the PIA in which he did not participate as a state employee. The one-year ban does not prohibit communication or appearances during the one-year period for the purpose of implementing, administering or fulfilling an existing contract not subject to the permanent ban.

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Statement of Economic Interests

Kelly Candaele
LA Community College District
Dated: October 10, 2002
File Number: A-02-246

A full-time, elected community college trustee may accept a gift of travel, provided the travel is paid for by a foreign government and is reasonably related to a legislative or governmental purpose or to an issue of state, national or international public policy. The gift of travel is reportable on the annual statement of economic interests.

Mark J. Nielsen
San Juan Capistrano City Council
Dated: September 19, 2002
Our File Number: A-02-228

Stocks held in a diversified fund that is not a diversified mutual fund registered with the Securities and Exchange Commission must be reported if the value of the stock is \$2,000 or more. Additionally, a limited partnership interest in venture capital funds is reportable if the value of the investment in the partnership is \$2,000 or more.

Margit Aramburu
Delta Protection Commission
Dated: August 30, 2002
File Number: A-02-156

For purposes of reporting, an individual assumes office when he or she is authorized to serve by being sworn in, making a governmental decision, or otherwise being authorized to serve, whichever is earlier.

Lorraine M. Walsh
Contra Costa County Superior Court
Dated: August 7, 2002
File Number: A-02-201

All superior court justices have statewide jurisdiction for purposes of completing the statement of economic interests, regardless of whether their employment is permanent or temporary.

Howard D. Coleman
L.A. Transportation Commission
Dated: July 8, 2002

Our File Number: A-02-121

A public official must disclose on his statement of economic interests certain investments held in a structured account. While there are similarities between a structured account and a mutual fund, the particular stock holdings of the former must be disclosed given that the exception for mutual fund holdings is exclusive to mutual funds.

Teresa Vig Rein
Business and Workforce Alliance of Stanislaus County
Dated: July 10, 2002
Our File Number: A-02-124

Members of the Business and Workforce Alliance of Stanislaus County, a workforce investment board, are public officials, subject to the Act's disclosure and conflict-of-interest rules.

Small Contributor Committee/ Proposition 34

Denise Headrick
Public Employees Union Local One
Dated: August 27, 2002
File Number: A-02-197

Discusses section 85203 and regulation 18503(a)(3) with regard to when and how an existing committee can become a small contributor committee. Existing committees can be "cleansed" of past contributions in excess of \$200 when a small contributor committee is initially formed. A small contributor committee is formed through creation of a new committee or an old committee amending its statement of organization.

Andrew Cassidy
Cassidy for State Assembly
Dated: July 10, 2002
Our File Number: I-01-296

A candidate for state elective office may refund his or her own contributions so long as a combined loan repayment and refund does not exceed \$100,000. The letter analyzes section 85319 in the context of the "personal use" laws.

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Section 84308

Fazle Rab Quadri
Mojave Desert Air Quality Management District Board

Dated: July 1, 2002

Our File Number: A-02-096

The Mojave Municipal Air Quality District Board is to vote on amendments to Rule 1161. Several board members are recipients of campaign contributions from several companies financially affected by the amendments. The board was advised that due to the unique inter-relationships between Rule 1161 and the operating permits for plants subject to the rule, and in light of the specific facts affecting the present amendments to the rule, the proceedings to amend Rule 1161 are construed as proceedings involving a license, permit or other entitlement for use for purposes of section 84308. Board members having received the contributions are barred from voting on the Rule 1161 amendments.